

**BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD**

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In the Matter of:	:	<b>NOTICE OF VIOLATION</b>
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Valley Oil Transportation, Inc.	:	<b>AND</b>
1474 West 1500 South	:	
Woods Cross, UT 84087	:	<b>ORDER FOR COMPLIANCE</b>
	:	
UTD988075669	:	
	:	<b><u>No: 0211030</u></b>
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This **NOTICE OF VIOLATION AND ORDER FOR COMPLIANCE** is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the Utah Used Oil Management Act (the Act), 19-6-701, et seq., Utah Code Annotated (UCA) 1953, as amended. The Board has delegated to the Executive Secretary authority to issue such **ORDERS** in accordance with 19-6-705 UCA.

**FINDINGS**

1. Valley Oil Transportation, Inc. (Valley Oil) is a "person" as defined in UCA 19-1-103(4) and is subject to all applicable provisions of the Act and R315-15 of the Utah Administrative Code (the Rules).
2. Valley Oil is a permitted used oil transporter located at 1474 West 1500 South, Woods Cross, UT 84087.
3. Valley Oil is a sister company with Maple Oil Products, Inc. (Maple Oil) and Golden Eagle Refinery, Inc. (Golden Eagle), with which it shares its corporate officers and facility. Valley Oil transports much of Golden Eagle's used oil.
4. Valley Oil has applied for and obtained a used oil transporter permit (UOP-0055-97). Golden Eagle has received a used oil reclaimer [processor] permit (UOP-0001-93), a used oil transporter permit (UOP-0002-93), and a used oil marketer registration (UOR-0059) from the Utah Division of Solid and Hazardous Waste (the Division). Maple Oil has received a used oil transporter permit (UOP-0052-97).

5. On 28 August 2002, Division inspectors visited Valley Oil's Woods Cross facility as part of a used oil inspection and documented several compliance issues. Some of these compliance issues are addressed in the cover letter to this Notice of Violation, but the more significant are listed below:

- a. i. Valley Oil has been using expired Clor-d-Tect 1000 test kits to determine the halogen levels in used oil picked up from generators. On 28 August 2002, inspectors were shown a test kit from a batch of expired test kits with an expiration date of May 2000. Valley Oil has thus been using test kits that had expired over two years before the inspection date. Results obtained from using expired test kits are not guaranteed by the manufacturer's warranty.
- ii. Purchase invoices provided to the inspectors by Valley Oil, revealed that only 320 Clor-D-Tect 1000 test kits were ordered from the manufacturer (Dexsil Corporation) during the period between April 2001 and 28 August 2002. Yet, in July 2002 alone, Valley Oil collected used oil from 147 locations. Valley Oil collected used oil from many other locations between April 2001 and August 2002 exceeding 320 collection sites, and thus would not have had enough test kits to comply with the analysis plan requirements without using expired test kits.
- b. i. Valley Oil has been recording unsubstantiated halogen results on its used oil tracking documents. In order to comply with the rebuttable presumption requirements of R315-15-4.5, Valley Oil drivers use Clor-d-Tect 1000 test kits to test the oil picked up from generators. These test kits are qualitative ("pass-fail") kits designed to determine whether an oil sample halogen concentration is above or below 1000 parts per million (ppm). However, the results are written on shipping documents as actual concentrations (such as "200 ppm" or "400 ppm") by Valley Oil drivers. Determining precise concentrations is not possible with the Clor-d-Tect 1000 test kits, nor are they designed for quantitative analysis. The Valley Oil representative explained during the inspection that Valley Oil drivers were asked to estimate the exact halogen concentrations of the used oil in order to be consistent with previous records which recorded exact concentrations using a different type of test kit, the Clor-d-Tect Q4000 (which is designed to determine the actual concentration of oil samples in the range of 200-4000 ppm).
- ii. In Notice of Violation and Order for Compliance (NOV) Number 003014, issued on 24 August 2000, Golden Eagle, Valley Oil's sister company, was found to have falsified dates on used oil analysis reports sent to its customers in 1988. The NOV noted that on six occasions, "Golden Eagle altered dates on analytical reports for samples of its used oil in a manner that misrepresented whether the oil it marketed had been properly analyzed to determine that it was on-specification used oil." The Order portion of that NOV stipulated, in part, that Golden Eagle: "In the future, provide inspectors and Division representatives only true and accurate information during inspections and audits and on its annual reports." It also stipulated that Golden Eagle "Ensure that its delivery manifests are properly cross-referenced to true analyses..."
- c. Valley Oil's analysis plan, submitted as part of its permit application on 15 April 1996 and incorporated into its used oil transporter permit by reference, states:

Valley Oil Transportation, Inc., will make a determination that used oil meets the requirements of R315-15-1.1(b)(1)(ii) prior to transporting. To make this determination, Valley Oil will utilize one of the following methods:

- (1) Generator analytical
  - (2) Generator knowledge of halogen content of the used oil in light of the materials or process used with the generators [sic] signature verifying that the material is less than 1000 ppm total halogens.
  - (3) If generator cannot supply analytical or certify that the used oil is less than 1000 ppm total halogens through generator knowledge, Valley Oil will run a Achloro detect@ on a representative sample prior to loading. All loads showing less than 1000 ppm will be marked on the shipping papers with samplers [sic] signature.
- ...All analytical or certifications of used oil meeting standards for halogens will remain on file for three years.

By testing with expired test kits, Valley Oil failed to follow its analysis plan, which was written to ensure that it does not transport hazardous waste. Condition 12 of Valley Oil's transporter permit requires it to follow its analysis plan.

### **DETERMINATION OF VIOLATIONS**

Based on the foregoing FINDINGS, Valley Oil has violated provisions of its used oil transporter permit (UOP-0055-97) and the Rules applicable to its used oil handling operations. Specifically, Valley Oil has violated the following:

**! R315-15-4.5 of the Rules** by failing to properly determine whether the total halogen content of used oil being transported is above or below 1,000 ppm due to the use of expired halogen test kits.

**! Condition 12 of its used oil transporter permit** by failing to follow its analysis plan by using expired test kits to meet its rebuttable presumption requirements.

### **ORDER**

Based on the foregoing FINDINGS AND VIOLATIONS, and pursuant to Section 19-6-705 of the Utah Code Annotated, R315-15-15.2 UAC, and Condition 8 of its used oil processor permit, Valley Oil is hereby ORDERED to:

1. Immediately initiate actions necessary to achieve compliance with applicable provisions of the Rules.
2. Cease recording unsubstantiated halogen results to show that its used oil meets the rebuttable presumption requirements of its analysis plan and R315-15-4.5.
3. Cease using expired test kits to test its used oil for the purposes of meeting the rebuttable presumption requirements of its analysis plan and R315-15-4.5.

### **COMPLIANCE, OPPORTUNITY FOR HEARING**

This ORDER is effective immediately and shall become final unless Valley Oil requests a hearing within thirty (30) days of the date below and in accordance with R315-12-3 of the Rules. Section 19-6-721 of the Utah Code Annotated provides that violators of the Used Oil Management Act or any ORDER issued thereunder may be subject to a civil penalty of up to ten thousand (\$10,000.00) dollars per day for each day of violation.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

By:

Dennis R. Downs, Executive Secretary  
Utah Solid and Hazardous Waste Control Board

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File: Valley Oil Co. -- Used Oil Transporter (UOP-0055-97)